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***THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY**

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+ WRIT PETITION No: 5130 of 1997

% Dated 24.02.2006

Nanjala Satyanarayana.

…….. PETITIONER

$ The Joint Collector and others.

RESPONDENTS

! Counsel for the petitioner: Sri R.Kameshwar Rao

^ Counsel for the respondents: Government Pleader for Revenue

< GIST:

> HEAD NOTE:

? Cases referred:

THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No. 5130 of 1997

DATED: 24.02.2006

Between:

Nanjala Satyanarayana.

... PETITIONER

AND

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... RESPONDENTS

ORDER:

The petitioner purchased an extent of Ac.6.09 guntas of land in Survey No.222 of Pallipadu Village, Konijerla Mandal, Khammam District, through a sale deed, dated 15.04.1975, executed by one Sri Somayajula Seetharama Sastry and his mother. The land was an inam, recorded in the name of one Sri Somayajula Yoganandam, the father of the vendor named above. The petitioner was issued Occupancy Right Certificate under Section 4 of the Andhra Pradesh (Telanga Area) Abolition of Inams Act, 1955 (for short 'the Inams Act') on 30.11.987, after the purchase. Aggrieved thereby, one Sri Chellagundla Veeranarayana, claiming to be the trustee of Sri Anjaneya Swamy Temple of that Village, filed an Appeal before the District Collector under Section 24 of the Inams Act. The appeal was dismissed on 08.10.1988. Writ Petition No.18934 of 1988, was filed against the said order.

By the time Writ Petition No.18934 of 1988 came up for hearing, certain

developments have taken place. The petitioner approached the Mandal Revenue Officer, Konijerla, 4th respondent herein, for issuance of Pattadar Pass Book in respect of the said land. A Pass Book was issued to him under the provisions of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the ROR Act').

The Joint Collector, Khammam, 1st respondent herein, initiated *suo motu* proceedings under Section 9 of the ROR Act against the petitioner, in relation to the Pattadar Pass Book issued to him. The petitioner was served with a show cause notice, directing him to explain, as to why the Pattadar Pass Book issued to him, shall not be cancelled. The petitioner submitted explanation and on a consideration of the entire material, the 1st respondent issued orders, dated 15.07.1996, cancelling the Paatadar Pass Book. This fact was brought to the notice of this Court when W.P.No.18934 of 1988 was taken up for hearing. Taking note of the same, the Writ Petition was closed, leaving it open to the aggrieved party viz., the petitioner, to challenge the order passed by the 1st respondent. Hence, this Writ Petition.

Sri R.Kameshwar Rao, the learned counsel for the petitioner submits that the impugned order is patently illegal and without jurisdiction. He contends that though the 1st respondent exercised *suo motu* power under Section 9 of the ROR Act, he proceeded to declare the order, dated 30.11.1987, passed by the Revenue Divisional Officer, and the one, dated 08.10.1988, passed by the District Collector, as null and void. He contends that even if the exercise of *suo motu* powers was permissible, in view of the amendments made to the ROR Act, as regards other matters, such an exercise is impermissible, in view of omission of the Inams Act, in Rule 9 of the ROR Rules. The learned counsel submits that the petitioner had already approached the authorities under the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Endowments Act'), to get his rights declared, and in that view of the matter, the impugned proceedings cannot be sustained in law. Certain subsidiary submissions were also made.

The learned Government Pleader for Revenue, on the other hand, submits that the impugned proceedings arose under the ROR Act and the observations made by the 1st respondent, in the context of the amendment to the Inams Act, cannot be treated as pronouncement upon the orders passed by the Revenue Divisional Officer and the District Collector on 30.11.1987 and 08.10.1988 respectively. He contends that the petitioner has to work out his remedies before the appropriate Forum under the Endowments Act.

The learned counsel for the petitioner does not dispute that the 1st respondent initiated *suo motu* proceedings under Section 9 of the ROR Act, in relation to the Pattadar Pass Book issued in favour of the petitioner. The issuance of proceedings was preceded by certain complaints, to the effect that the land covered by the Pattadar Pass Book, belongs to Sri Anjaneya Swamy Temple. The petitioner was issued Pattadar Pass Book on the strength of the Occupancy Right Certificate issued to him by the Revenue Divisional Officer, Khammam, on 30.11.1987, which, in turn, was affirmed by the District Collector on 08.10.1988. During the course of the examination of the matter, the 1st respondent made a reference to the provisions of the Inams Act as well as the proceedings issued in favour of the petitioner under the said enactment.

One significant development, that has taken place after the petitioner was issued the Occupancy Rights Certificate, was that Section 4 of the Inams Act was substantially amended through Act 19 of 1994 and the following provisions were added:

> *"Provided that where imams are held by or for the benefit of charitable and religious institutions no person shall be entitled to be registered as an occupant under Sections 5,6,7 and 8 and the institution alone shall be entitled to be registered as an occupant of all inam lands other than those specified in clauses (a) and (c) above without registration of extent to four and half times the family holding and without the condition of personal cultivation.*
>
> *Provided further that where any person other than the concerned charitable or religious institution has been registered as an occupant under Sections 5,6,7 and 8 after the*

commencement of the Andhra Pradesh (Telangana Area) Abolition of Inams (Amendment) Act, 1985 such registration shall and shall be deemed always to have been null and void and no effect shall be given to such registration."

The 1st respondent took note of these provisos and reiterated the same vis-à-vis the Occupancy Right Certificate issued to the petitioner as well as the order passed by the District Collector in the Appeal preferred against the same. An observation made by the 1st respondent that the said proceedings are null and void, cannot be treated as an adjudication upon those proceedings, but reiteration of the provisions of Section 4 of the Inams Act. Any doubt, which the petitioner entertains, in this regard, needs to be clarified.

It was not obligatory on the part of the 1st respondent to have exclusively guided by the Occupancy Right Certificate issued in favour of the petitioner under the Inams Act, while examining the question of issuance of Pattadar Pass Book, particularly in view of the amendment caused through Act 19 of 1994. It must not be forgotten that the Inams Act was amended with retrospective effect and even the Occupancy Right Certificates or entries made in favour of any persons vis-à-vis the land, held by religious institutions, were held to be void, and deemed always, to have been null and void.

The learned counsel for the petitioner raised a serous objection as to the very applicability of the amended provision by contending that the land was never meant for the benefit of the Temple but was an exclusive gift in favour of Sri Somayajula Yoganandam. He elaborated his submissions by referring to the nature of 'Inam' as well as the meaning of word 'khairat'. This Court would have certainly undertaken adjudication on these aspects, but for the fact that an authority is conferred with the jurisdiction to decide such questions, under Section 87(1)(c) of the Endowments Act. The petitioner is already pursuing those remedies.

For the foregoing reasons, the Writ Petition is disposed of, directing that;

a. The impugned order, dated, 15.07.1996 passed by the 1st respondent shall be treated as the one exclusively under the provisions of the ROR Act, and that it shall not be treated as a pronouncement upon the Occupancy Right Certificate, dated 30.11.1987, issued by the Revenue Divisional Officer, Khammam, or the order dated, 08.10.1988, passed by the District Collector in the appeal filed against the same;

b. The effect of the amendment caused to Section 4 of the Inam Act through Act 19 of 1994 shall certainly constitute the basis, while examining the issue relating to issuance of Pattadar Pass Book or denial of the same to the petitioner under the ROR Act; and

c. The question as to whether the land In Survey No.221 of Pallipadu Village, Konijerla Mandal, Khammam District is an endowment, covered by the two provisos introduced in Section 4 of the Inams Act, would depend upon the outcome of the proceedings said to be pending in O.A.No.25 of 1985 filed against the order passed by the Assistant Commissioner, Endowments Department, Khammam.

d. There shall be no order as to costs.

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24.02.2006

Note: L.R.Copy to be marked.

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